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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/978,114	10/15/2001	Richard H. Jones	PHB 34-221A	3750
24737	7590	12/20/2007		
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510			EXAMINER NGUYEN, DAVID Q	
			ART UNIT	PAPER NUMBER
			2617	
			MAIL DATE	DELIVERY MODE
			12/20/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/978,114

Applicant(s)

JONES ET AL.

Examiner

David Q. Nguyen

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. In view of the appeal brief filed on 10/10/07, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

Response to Arguments

2. Applicant's arguments, see Appeal Brief, filed 10/10/07, with respect to claims 20-36 have been fully considered and are persuasive. The final rejection of claims 20-36 has been withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 20,23, 30-31, and 34-35 are rejected under 35 U.S.C. 102(b) as being anticipated by (JP 05199158).

Regarding claim 20, JP 05199158 discloses a communication device, comprising a receiver operable to receive an incoming message that does not include a predetermined tone or melody (see abstract) and a processor in communication with the receiver and operable to compose a melody corresponding to the incoming message (see abstract).

Regarding claim 23, JP 05199158 discloses a method of operating a communication device in alerting a user of the communication device of an incoming message, said method comprising receiving an incoming message that does not include a predetermined tone or melody (see abstract) and composing a melody corresponding to the incoming message subsequent to a reception of the incoming message (see abstract).

Regarding claims 30-31 and 34-35, JP 05199158 also discloses wherein the message is a numeric message (see abstract); wherein the message is an alphanumeric message (see abstract).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 21-22 and 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over (JP 05199158) in view of Morishima (US Patent Number 6075998).

Regarding claim 25, JP 05199158 discloses a communication device, comprising a receiver operable to receive an incoming message that does not include a predetermined tone or melody (see abstract) and a processor in communication with the receiver operable to compose a melody corresponding to the incoming message (see abstract). JP 05199158 does not mention a processor in communication with the receiver operable to control a display of the incoming message. However, Morishima discloses a processor in communication with the receiver operable to control a display of the incoming message (see col. 3, lines 32-40). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above teaching of Morishima to the communication device of JP 05199158 in order to alert user the phone number of a caller.

Regarding claims 21-22; 24, JP 05199158 does not mention wherein said processor is further operable to divide the incoming message into a plurality of fields to thereby compose the melody and the plurality of fields including a tempo field, a repetitive play field, and at least one note field . However, Morishima discloses wherein said processor is further operable to divide the incoming message into a plurality of fields to thereby compose the melody (see col. 6, lines 18-63; fig. 5) and the plurality of fields including a tempo field, a repetitive play field, and at least one note field (see col. 4, lines 1-61 and col. 5, lines 36-59). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above teaching of Morishima to JP 05199158 in order to allow the sender to send message composed music by the sender.

Regarding claims 26-29, Morishima also discloses wherein said processor is further operable to divide the incoming message into a plurality of fields to thereby compose the melody

(see col. 6, lines 18-63; fig. 5) and the plurality of fields including a tempo field, a repetitive play field, and at least one note field (see col. 4, lines 1-61 and col. 5, lines 36-59). And JP 05199158 discloses wherein the message is a numeric message (see col. 6, lines 18-63; and fig. 5); wherein the message is an alphanumeric message (see col. 6, lines 18-63; and fig. 5; 1st numeral data D1). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above teaching of Morishima to JP 05199158 in order to allow the sender to send message composed music by the sender.

5. Claims 33 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over (JP 05199158) in view of Willner et al (US Patent Number 6064666).

Regarding claims 33 and 36, the method and the communication device of JP 05199158 does not mention wherein the message is a voice mail message. However, Willner et al teach the message is a voice mail message (see col. 19, lines 43-62, converting a voice mail message to text). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above teaching of Willner et al to the method and the communication device of JP 05199158 in order to allow the user to compose the melodic sound using voice mail message.

6. Claims 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over (JP 05199158) in view of Morishima (US Patent Number 6075998) and further in view of Willner et al (US Patent Number 6064666).

Regarding claim 30, the communication of (JP 05199158) in view of Morishima (US Patent Number 6075998) does not mention wherein the message is a voice mail message.


However, Willner et al teach the message is a voice mail message (see col. 19, lines 43-62, converting a voice mail message to text). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above teaching of Willner et al to the method and the communication device of JP 05199158 in order to allow the user to compose the melodic sound using voice mail message.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Q. Nguyen whose telephone number is 571-272-7844. The examiner can normally be reached on 8:30AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH H. FEILD can be reached on (571)272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


David Q Nguyen
Examiner